



March 12, 1999

Mr. Kevin Kapitan
Assistant City Attorney
Fort Worth Police Department
Office of Police Legal Advisor
350 West Belknap Street
Fort Worth, Texas 76134

OR99-0701

Dear Mr. Kapitan;

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122830.

The Police Department of the City of Fort Worth (the "city") received a request for "the police file, including color prints of any photographs for report number 98674648." You submitted to this office information that is responsive to the request, and you claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes, including Chapter 48 of the Human Resources Code, which provides "for the authority to investigate the abuse, exploitation, or neglect of an elderly or disabled person and to provide protective services to that person." Section 48.101(a) makes confidential,

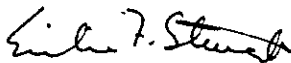
- (1) a report of abuse, neglect, or exploitation made under this chapter;
- (2) the identity of the person making the report; and
- (3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter or in providing services as a result of an investigation.

Hum. Res. Code § 48.101.

We note that one of the responsive documents indicates "TDHS notified." Also, you state that "information included in, and/or received by the police department and the Texas Department of Protective and Regulatory Services is 'flowed' between the two agencies for the respective abuse and criminal investigations, as required by Tex. Human Resources Code § 48.036 and § 48.0361" We conclude, therefore, that all of the requested information, including the basic information about a crime, which would otherwise be public information under section 552.108(c) of the Government Code, is protected from disclosure by section 48.101 of the Human Resources Code. You must withhold the requested information. Having decided that all of the requested information is protected by section 552.101 of the Government Code and section 48.101 of the Human Resources Code, we need not reach the other exceptions to public disclosure that you raise.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 122830

Enclosures: Submitted documents

cc: Ms. Tara Weede
Attorney Litigation Services, Inc.
1905 North Lamar, Suite 200
Austin, Texas 78705-4919
(w/o enclosures)